



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Intraspaces Corporation

File: B-237853

Date: March 23, 1990

Robert F. D'Ausilio, for the protester.
Colonel Herman A. Peguese, Department of the Air Force, for the agency.
Scott H. Riback, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester was properly excluded from the competitive range where agency reasonably concluded that firm had no reasonable chance for award because of significant technical deficiencies identified in its proposal which was rated by agency's technical evaluators as "unacceptable" in seven of the solicitation's nine technical and management evaluation areas.

DECISION

Intraspaces Corporation protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. F04701-88-R-0035, issued by the Department of the Air Force for a space vehicle system, related data and operational support services in connection with its space test experiments platform (STEP) program. Intraspaces argues that the number and nature of deficiencies identified in its proposal were insufficient to eliminate it from the competitive range in view of the significant cost savings which the firm's proposal allegedly offered the Air Force.

We deny the protest.

The RFP called for the submission of separate cost and technical/management proposal volumes and provided that proposals would be evaluated on the basis of technical, management and cost criteria to determine which proposal was

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most advantageous to the government. With respect to the relative importance of the evaluation criteria, the RFP specified that technical was the most important, management second and cost third. Within the technical area, proposals were to be evaluated on the basis of two major factors, "space vehicle system" (SVS) and "supporting technical activities," which were further divided into a total of seven technical "items." Within the management area, the RFP specified that proposals would be evaluated on the basis of organization, project/systems engineering management and process control. The RFP also specified that for each of the evaluated items, firms would be rated either exceptional, acceptable, marginal or unacceptable. In addition, the technical and management areas would be rated using a "risk factor" assessment of either high, medium, or low. Finally, cost was to be evaluated for completeness, reasonableness, and realism.

In response to the solicitation, the Air Force received eight initial proposals. After evaluation of the initial proposals by the source selection evaluation team (SSET), the contracting officer, with the concurrence of the source selection authority (SSA), concluded that the proposal of Intraspace was not within the competitive range and so informed the firm. The agency found Intraspace's proposal technically deficient in numerous areas, requiring major revisions, and also found that the firm had submitted an unrealistically low cost proposal. Intraspace filed an agency-level protest. In response, the Air Force for informational purposes provided the firm with a listing of some 13 clarification requests (CRs) and 16 deficiency reports (DRs) relating to the firm's technical/management proposal as well as a listing of various CRs and DRs relating to the firm's cost proposal.^{1/} Intraspace remained dissatisfied and filed this protest with our Office.

Intraspace argues that it was improperly excluded from the competitive range because its proposal met RFP requirements, and its offer provided the government with substantial cost savings. With regard to the evaluation, Intraspace generally states that it "disagrees" with the agency's technical judgments regarding its proposal and also

^{1/} The CRs and DRs had been prepared by the SSET in contemplation of discussions before the decision to eliminate Intraspace from the competitive range had been made. The Air Force hoped this information would cause the firm to withdraw its protest.

argues that the Air Force ignored various innovative solutions contained in its proposal. Intraspace also alleges that other firms also received a similar number of CRs and DRs and that, therefore, it should have been considered within the competitive range along with these other firms. As to its cost proposal, Intraspace argues that the Air Force erroneously concluded that the firm had offered an unrealistically low proposal, because its expected nonrecurring developmental costs for the design of the spacecraft have already been incurred since its proposal offered a modified version of an already developed spacecraft.

The Air Force responds that it reasonably determined Intraspace to be outside the competitive range after a thorough review of the firm's proposal. The Air Force points out that its SSET rated Intraspace's proposal "unacceptable" in each of the six technical evaluation areas and rated the firm's proposal "unacceptable" in one of the three management areas and only "marginal" in the other two management areas. In addition, the agency notes that Intraspace's technical proposal was given a risk rating of "high" while its management proposal received a risk rating of "moderate." Finally, the Air Force states that Intraspace's proposal was not eliminated solely on the basis of the number of CRs and DRs but, rather, on the basis of the nature of and cumulative effect of these CRs and DRs on the firm's probability of successful contract performance.

Our Office will not disturb an agency's decision to exclude a firm from the competitive range unless this determination was unreasonable. Ameriko Maintenance Co., Inc., B-216406, Mar. 1, 1985, 85-1 CPD ¶ 255. A protester has the burden of proving that the agency's evaluation was unreasonable. Robert Wehrli, B-216789, Jan. 16, 1985, 85-1 CPD ¶ 43. This burden is not met by the protester's mere disagreement with the agency's judgment. Wellington Assocs., Inc., B-228168.2, Jan. 28, 1988, 88-1 CPD ¶ 85. In this regard, an agency's decision to exclude an offeror from the competitive range is proper where the offeror's technical proposal is so deficient that it would require major revisions before it could be made acceptable. Ameriko Maintenance Inc., B-216406, supra. In addition, the mere fact that a firm has offered a lower price is irrelevant where the firm's offer has properly been found to be technically unacceptable since a technically unacceptable proposal cannot be considered for award regardless of the

potential cost savings to the government. See William B. Hackett & Assocs., Inc., B-232799, Jan. 18, 1989, 89-1 CPD ¶ 46.

We have examined the record with respect to the evaluation of Intraspace's proposal and conclude that the Air Force reasonably excluded the firm from the competitive range on the basis of that evaluation. As noted above, Intraspace's proposal had been found unacceptable in each of the six technical evaluation areas and in one of the three management evaluation areas. In this regard, we point out that, for example, in the "SVS concept" area, the evaluators found that Intraspace's proposal failed to address or inadequately addressed the RFP's requirements concerning its proposed SVS' ability to meet current and future missions requirements and also failed to adequately address the experiment requirements for which the SVS is to be designed. In the area of "fabrication and assembly," the evaluators found that Intraspace had failed to present a comprehensive approach to the construction of the SVS and had failed to describe the parts program required by the RFP such that, in the opinion of the SSET, mission reliability was jeopardized. In the area of "integration" the evaluators found that Intraspace had failed to describe how it would integrate the various experiment equipment into its spacecraft or how it would integrate its SVS into the Air Force's chosen launch system. These deficiencies, along with the other deficiencies identified by the SSET, led the Air Force to conclude that for Intraspace to be considered technically acceptable, the firm would have to submit almost an entirely new proposal.

In response, Intraspace has merely stated that it disagrees with the judgment of the agency's technical evaluators but has not presented our Office with any evidence which would show that the Air Force's evaluators erred in reaching their conclusions.^{2/} Indeed, the protester has not even attempted to rebut the numerous technical deficiencies found by the Air Force in its proposal. In addition, we note that, contrary to Intraspace's position, the record shows that it was the nature and gravity of the identified CRs and DRs, not just the number of them, which led to the firm's exclusion from the competitive range. Under these circumstances, we have no basis upon which to question the

^{2/} In this regard, we note that Intraspace is fully aware of the agency's concerns regarding its proposal since it was provided with the various CRs and DRs identified by the SSET in contemplation of possible discussions with the firm.

Air Force's judgment that Intraspaces's proposal was outside of the competitive range for purposes of this procurement regardless of its low cost.

The protest is denied.

for Robert P. Murphy
James F. Hinchman
General Counsel